

#### 5.2.4. COST PROPOSAL

#### CORRECTION

Professional Licensing is requesting an increase from the current contract amount of \$67,482.96 to \$72,282.96, which is an increase of \$400.00 per month. We are asking for \$6,023.58 per month (\$72,282.96 per year) for services along with \$300.00 per month (\$3,600.00 per year) for rent as a separate expense. Yearly expenses not to exceed \$10,000. The total yearly contract amount not to exceed \$85,882.96.

State to pay the expenses as a separate item. Every expense is submitted to the Department of Social Services for audit and review.

The normal workload growth along with committee member meetings, rules revisions, budgetary requirements, legal questions, public demands and the State required data collection has made it necessary for the contract increase of \$400.00 per month. In addition to employee wages and additional staff there are increases to utilities and rent. Commercial general liability, worker's compensation, business automobile liability and professional liability insurances required by the State increase yearly and are paid directly by Professional Licensing and are not reimbursed by the Board.

Professional Licensing, like all agencies, has contended with normal workload growth and increases in the cost of doing business. As a result of all mentioned increases, we have had to add additional staff in order to continue to provide quality professional services.

Cost of services per month	6023.58
Cost of rent per month	300.00
Total annual cost of services and rent combined	75,882.96
Annual cost of miscellaneous expenses	10000.00
<b>TOTAL CONTRACT AMOUNT</b>	<b>85,882.96</b>

#### 5.2.4. COST PROPOSAL

#### ORIGINAL

Professional Licensing is requesting an increase from the current contract amount of \$67,482.96 to \$72,282.96, which is an increase of \$400.00 per month. We are asking for \$6,023.58 per month (\$72,282.96 per year) for services along with \$300.00 per month (\$3,600.00 per year) for rent as a separate expense. Yearly expenses not to exceed \$10,000. The total yearly contract amount not to exceed \$82,282.96.

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The normal workload growth along with committee member meetings, rules revisions, budgetary requirements, legal questions, public demands and the State required data collection has made it necessary for the contract increase of \$400.00 per month. In addition to employee wages and additional staff there are increases to utilities and rent. Commercial general liability, worker's compensation, business automobile liability and professional liability insurances required by the State increase yearly and are paid directly by Professional Licensing and are not reimbursed by the Board.

Professional Licensing, like all agencies, has contended with normal workload growth and increases in the cost of doing business. As a result of all mentioned increases, we have had to add additional staff in order to continue to provide quality professional services.

Cost of services per month	6023.58
Cost of rent per month	300.00
Total annual cost of services and rent combined	72,282.96
Annual cost of miscellaneous expenses	10000.00
<b>TOTAL CONTRACT AMOUNT</b>	<b>82,282.96</b>

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF THE SECRETARY**

**Consultant Contract  
For Consultant Services  
Between**

Professional Licensing  
DBA: Carol Tellinghuisen  
810 N. Main St. Suite 298  
Spearfish, SD 57783

State of South Dakota  
Department of Social Services  
OFFICE OF THE SECRETARY  
700 Governors Drive  
Pierre, SD 57501-2291

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Referred to as Consultant

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Referred to as State

The State hereby enters into a contract (the "Agreement" hereinafter) for consultant services with the Consultant. While performing services hereunder, Consultant is an independent contractor and not an officer, agent, or employee of the State of South Dakota.

1. CONSULTANT'S South Dakota Vendor Number is 12078255 .
2. PERIOD OF PERFORMANCE:
  - A. This Agreement shall be effective as of June 1, 2017 and shall end on May 31, 2018, unless sooner terminated pursuant to the terms hereof.
  - B. Agreement is the result of request for proposal process, RFP #188
3. PROVISIONS:
  - A. The Purpose of this Consultant contract:
    1. 1. Provide administrative services to the Board of Social Work Examiners outlined in the scope of work section of RFP #188
    2. Does this Agreement involve Protected Health Information (PHI)? YES ( ) NO ( X )  
If PHI is involved, a Business Associate Agreement must be attached and is fully incorporated herein as part of the Agreement (refer to attachment ).
    3. The Consultant will not use state equipment, supplies or facilities.
  - B. The Consultant agrees to perform the following services (add an attachment if needed.):
    1. Provide support services to the South Dakota Board of Social Work Examiners (board) with oversight from the South Dakota Department of Social Services as outlined in RFP#I 88 (attached) and the consultant proposal.
  - C. The State agrees to:
    1. Make payment for services performed under this Agreement of \$5,623.58 per month plus \$300.00 per month for rent. The services and rent amount will not exceed \$71,083.00 Payment will be made pursuant to signed, monthly invoices.
    2. Pay the Contractors miscellaneous expenses as a separate item. Payment will be made pursuant to signed, monthly invoices submitted to the State and any items purchased shall be the property of the Board of Social Work Examiners. The total amount of such expenses may not exceed \$10,000.00.



3. Travel expenses will be reimbursed at State rates; out-of-state travel requires preapproval.

D. Make payment for services upon satisfactory completion of services and receipt of bill. Payment will be in accordance with SDCL 5-26.

E. Will the State pay Consultant expenses as a separate item?

YES (X) NO ( )

If YES, expenses submitted will be reimbursed as identified in this Agreement.

F. The TOTAL CONTRACT AMOUNT will not exceed \$ \$81,083.00.

4. BILLING:

Consultant agrees to submit a bill for services within (30) days following the month in which services were provided. Consultant will prepare and submit a monthly bill for services. Consultant agrees to submit a final bill within 30 days of the Agreement end date to receive payment for completed services. If a final bill cannot be submitted in 30 days, then a written request for extension of time and explanation must be provided to the State.

5. TECHNICAL ASSISTANCE:

The State agrees to provide technical assistance regarding Department of Social Services rules, regulations and policies to the Consultant and to assist in the correction of problem areas identified by the State's monitoring activities.

6. LICENSING AND STANDARD COMPLIANCE:

The Consultant agrees to comply in full with all licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance in which the service and/or care is provided for the duration of this Agreement. The Consultant will maintain effective internal controls in managing the federal award. Liability resulting from noncompliance with licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance or through the Consultant's failure to ensure the safety of all individuals served is assumed entirely by the Consultant.

7. ASSURANCE REQUIREMENTS:

The Consultant agrees to abide by all applicable provisions of the following: , Byrd Anti Lobbying Amendment (31 USC 1352), Executive orders 12549 and 12689 (Debarment and Suspension), Drug-Free Workplace, Executive Order 11246 Equal Employment Opportunity, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Drug Abuse Office and Treatment Act of 1972, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, Pro-Children Act of 1994, Hatch Act, Health Insurance Portability and Accountability Act (HIPAA) of 1996 as amended, Clean Air Act, Federal Water Pollution Control Act, Charitable Choice Provisions and Regulations, Equal Treatment for Faith-Based Religions at Title 28 Code of Federal Regulations Part 38, the Violence Against Women Reauthorization Act of 2013 and American Recovery and Reinvestment Act of 2009, as applicable.

8. RETENTION AND INSPECTION OF RECORDS:

The Consultant agrees to maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records and documents regarding applications, determination of eligibility (when applicable), the provision of services, administrative costs, statistical, fiscal, other records, and information necessary for reporting and accountability required by the State. The Consultant shall retain such records for a period of six years from the date of submission of the final expenditure report. If such records are under pending audit, the Consultant agrees to hold such records for a longer period upon notification from the State. The State, through any authorized representative, will have access to and the right to examine and copy all records, books, papers or documents related to services rendered under this Agreement. State Proprietary Information retained in Consultant's secondary and backup systems will remain fully subject to the obligations of confidentiality stated herein until such information is erased or destroyed in accordance with Consultant's established record retention policies.

All payments to the Consultant by the State are subject to site review and audit as prescribed and carried out by the State. Any over payment of this Agreement shall be returned to the State within thirty days after written notification to the Consultant.

**9. WORK PRODUCT:**

Consultant hereby acknowledges and agrees that all reports, plans, specifications, technical data, drawings, software system programs and documentation, procedures, files, operating instructions and procedures, source code(s) and documentation, including those necessary to upgrade and maintain the software program, State Proprietary Information, as defined in the Confidentiality of Information paragraph herein, state data, end user data, Protected Health Information as defined in 45 CFR 160.103, and all information contained therein provided to the State by the Consultant in connection with its performance of service under this Agreement shall belong to and is the property of the State and will not be used in any way by the Consultant without the written consent of the State.

Paper, reports, forms software programs, source code(s) and other materials which are a part of the work under this Agreement will not be copyrighted without written approval of the State. In the unlikely event that any copyright does not fully belong to the State, the State none the less reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, and otherwise use, and to authorize others to use, any such work for government purposes.

Consultant agrees to return all information received from the State to State's custody upon the end of the term of this Agreement, unless otherwise agreed in a writing signed by both parties.

**10. TERMINATION:**

This Agreement may be terminated by either party hereto upon thirty (30) days written notice. In the event the Consultant breaches any of the terms or conditions hereof, this Agreement may be terminated by the State for cause at any time, with or without notice. Upon termination of this Agreement, all accounts and payments shall be processed according to financial arrangements set forth herein for services rendered to date of termination.

**11. FUNDING:**

This Agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of the law or federal funds reduction, this Agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

**12. ASSIGNMENT AND AMENDMENTS:**

This Agreement may not be assigned without the express prior written consent of the State. This Agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.



**13. CONTROLLING LAW:**

This Agreement shall be governed by and construed in accordance with the laws of the State of South Dakota, without regard to any conflicts of law principles, decisional law, or statutory provision which would require or permit the application of another jurisdiction's substantive law. Venue for any lawsuit pertaining to or affecting this Agreement shall be resolved in the Circuit Court, Sixth Judicial Circuit, Hughes County, South Dakota.

**14. SUPERCESSION:**

All prior discussions, communications and representations concerning the subject matter of this Agreement are superseded by the terms of this Agreement, and except as specifically provided herein, this Agreement constitutes the entire agreement with respect to the subject matter hereof.

**15. IT STANDARDS:**

Any software or hardware provided under this Agreement will comply with state standards which can be found at <http://bit.sd.gov/standards/>.

**16. SEVERABILITY:**

In the event that any provision of this Agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement, which shall remain in full force and effect.

**17. NOTICE:**

Any notice or other communication required under this Agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the Division being contracted with on behalf of the State, and by the Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

**18. SUBCONTRACTORS:**

The Consultant may not use subcontractors to perform the services described herein without express prior written consent from the State. The State reserves the right to reject any person from the Agreement presenting insufficient skills or inappropriate behavior.

The Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this Agreement. The Consultant will cause its subcontractors, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance. The State, at its option, may require the vetting of any subcontractors. The Consultant is required to assist in this process as needed.

**19. STATE'S RIGHT TO REJECT:**

The State reserves the right to reject any person or entity from performing the work or services contemplated by this Agreement, who present insufficient skills or inappropriate behavior.

**20. HOLD HARMLESS:**

The Consultant agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as the result of performing services hereunder. This section does not require the Consultant to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

21. INSURANCE:

Before beginning work under this Agreement, Consultant shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Agreement. The Consultant, at all times during the term of this Agreement, shall obtain and maintain in force insurance coverage of the types and with the limits listed below. In the event a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, the Consultant agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Consultant shall furnish copies of insurance policies if requested by the State.

A. Commercial General Liability Insurance:

Consultant shall maintain occurrence-based commercial general liability insurance or an equivalent form with a limit of not less than \$1,000,000 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or be no less than two times the occurrence limit.

B. Business Automobile Liability Insurance:

Consultant shall maintain business automobile liability insurance or an equivalent form with a limit of not less than \$500,000 for each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles.

C. Worker's Compensation Insurance:

Consultant shall procure and maintain Workers' Compensation and employers' liability insurance as required by South Dakota law.

D. Professional Liability Insurance:

Consultant agrees to procure and maintain professional liability insurance with a limit not less than \$1,000,000.

(Medical Health Professional shall maintain current general professional liability insurance with a limit of not less than one million dollars for each occurrence and three million dollars in the aggregate. Such insurance shall include South Dakota state employees as additional insureds in the event a claim, lawsuit, or other proceeding is filed against a state employee as a result of the services provided pursuant to this Agreement. If insurance provided by Medical Health Professional is provided on a claim made basis, then Medical Health Professional shall provide "tail" coverage for a period of five years after the termination of coverage.)

22. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:

Consultant certifies, by signing this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by the federal government or any state or local government department or agency. Consultant further agrees that it will immediately notify the State if during the term of this Agreement either it or its principals become subject to debarment, suspension or ineligibility from participating in transactions by the federal government, or by any state or local government department or agency.

23. CONFLICT OF INTEREST:

Consultant agrees to establish safeguards to prohibit employees or other persons from using their positions for a purpose that constitutes or presents the appearance of personal organizational conflict of interest, or personal gain as contemplated by SDCL 5-18A-17 through 5-18A-17.6. Any potential conflict of interest must be disclosed in writing. In the event of a conflict of interest, the Consultant expressly agrees to be bound by the conflict resolution process set forth in SDCL 5-18A-17 through 5-18A-17.6.

24. CONFIDENTIALITY OF INFORMATION:

For the purpose of the sub-paragraph, "State Proprietary Information" shall include all information disclosed to the Consultant by the State. Consultant acknowledges that it shall have a duty to not disclose any State Proprietary Information to any third person for any reason without the express written permission of a State



officer or employee with authority to authorize the disclosure. Consultant shall not: (i) disclose any State Proprietary Information to any third person unless otherwise specifically allowed under this Agreement; (ii) make any use of State Proprietary Information except to exercise rights and perform obligations under this Agreement; (iii) make State Proprietary Information available to any of its employees, officers, agents or consultants except those who have agreed to obligations of confidentiality at least as strict as those set out in this Agreement and who have a need to know such information. Consultant is held to the same standard of care in guarding State Proprietary Information as it applies to its own confidential or proprietary information and materials of a similar nature, and no less than holding State Proprietary Information in the strictest confidence. Consultant shall protect confidentiality of the State's information from the time of receipt to the time that such information is either returned to the State or destroyed to the extent that it cannot be recalled or reproduced. State Proprietary Information shall not include information that (i) was in the public domain at the time it was disclosed to Consultant; (ii) was known to Consultant without restriction at the time of disclosure from the State; (iii) that is disclosed with the prior written approval of State's officers or employees having authority to disclose such information; (iv) was independently developed by Consultant without the benefit or influence of the State's information; (v) becomes known to Consultant without restriction from a source not connected to the State of South Dakota. State's Proprietary Information shall include names, social security numbers, employer numbers, addresses and all other data about applicants, employers or other clients to whom the State provides services of any kind. Consultant understands that this information is confidential and protected under applicable State law at SDCL 1-27-1.5, modified by SDCL 1-27-1.6, SDCL 28-1-29, SDCL 28-1-32, and SDCL 28-1-68 as applicable federal regulation and agrees to immediately notify the State if the information is disclosure, either intentionally or inadvertently. The parties mutually agree that neither of them shall disclose the contents of the Agreement except as required by applicable law or as necessary to carry out the terms of the Agreement or to enforce that party's rights under this Agreement. Consultant acknowledges that the State and its agencies are public entities and thus are bound by South Dakota open meetings and open records laws. It is therefore not a breach of this Agreement for the State to take any action that the State reasonably believes is necessary to comply with the South Dakota open records or open meetings laws. If work assignments performed in the course of this Agreement require additional security requirements or clearance, the Consultant will be required to undergo investigation.

**25. REPORTING PROVISION:**

Consultant agrees to report to the State any event encountered in the course of performance of this Agreement which results in injury to any person or property, or which may otherwise subject Consultant, or the State of South Dakota or its officers, agents or employees to liability. Consultant shall report any such event to the State immediately upon discovery.

Consultant's obligation under this section shall only be to report the occurrence of any event to the State and to make any other report provided for by their duties or applicable law. Consultant's obligation to report shall not require disclosure of any information subject to privilege or confidentiality under law (e.g., attorney-client communications). Reporting to the State under this section shall not excuse or satisfy any obligation of Consultant to report any event to law enforcement or other entities under the requirements of any applicable law.



26. AUTHORIZED SIGNATURES:

In witness hereto, the parties signify their agreement by affixing their signatures hereto.

<u>Cecil Tellinghuser</u> Consultant Signature	<u>6/14/17</u> Date
<u>[Signature]</u> Board Member Signature	<u>6/21/17</u> Date
<u>Amy Iversen-Pollreisz</u> State - DSS Deputy Secretary Amy Iversen-Pollreisz	<u>6/5/17</u> Date
<u>Laurie Mikkonen</u> State - DSS Chief Financial Officer Laurie Mikkonen	<u>6/7/2017</u> Date
<u>Lynne A. Valenti</u> State - DSS Cabinet Secretary Lynne A. Valenti	<u>6/8/2017</u> Date

State Agency Coding:

CFDA #				
Company	<u>6503</u>	<u>6503</u>		
Account	<u>520409000</u>	<u>520451000</u>		
Center Req	<u>0893000</u>	<u>0893000</u>		
Center User	<u>719</u>	<u>719</u>		
Dollar Total	<u>\$77,483.00</u>	<u>\$3,600.00</u>		

DSS Program Contact Person Robert McCarthy  
Phone 605.773.4095

DSS Fiscal Contact Person Contract Accountant  
Phone 605 773-3586

Consultant Program Contact Person \_\_\_\_\_  
Phone \_\_\_\_\_

Consultant Fiscal Contact Person \_\_\_\_\_  
Phone \_\_\_\_\_

Consultant Email Address \_\_\_\_\_

SDCL 1-24A-1 states that a copy of all consulting contracts shall be filed by the State agency with the State Auditor within five days after such contract is entered into and finally approved by the contracting parties. For further information about consulting contracts, see the State Auditor's policy handbook.

STATE OF SOUTH DAKOTA  
DEPARTMENT OF SOCIAL SERVICES

The State of South Dakota requires all contracts signed July 1, 2009 and later to include documentation that the agency has complied with the procedures set forth in SDCL 5-18A through 5-18D (HB 1260). The documentation must include the request for proposal number (RFP) or the reason the agreement is exempt from the requirements of the law. Payments for contracts that have not complied with the law will be returned as illegal, unauthorized or improper (SDCL 4-9-7).

Provider's Name: Carol Tellinghuisen

RFP #: 188

(OR)

Check the applicable exemption(s):

☐ (1) Services of such a unique nature that the contractor selected is clearly and justifiably the only practicable source to provide the services. Determine that the contractor selected is justifiably the sole source is based on either the uniqueness of the service or sole source is based on either the uniqueness of the service or sole availability at the location required;

If checked, please provide explanation:

☐ (2) Emergency services necessary to meet an urgent or unexpected requirement or when health and public safety or the conservation of public resources is a risk;

If checked, please provide explanation:

☐ (3) Services subject to federal law, regulation, or policy or state statute, under which a state agency is required to use a different selection process or to contract with an identified contractor or type of contractor;

☐ (4) Services for professional legal services and services of expert witnesses, hearing officers, or administrative law judges retained by state agencies for administrative or court proceedings;

☐ (5) Services involving state or federal financial assistance passed through by a state agency to a political subdivision;

☐ (6) Medical services and home and community-based services;

☐ (7) Services to be performed for a state agency by another state or local government agency or contracts made by a state agency with a local government agency for the direct provision of services to the public; or

☐ (8) Services to be provided by entertainers for the state fair and other events.

☐ (9) Does not exceed \$50,000.00; SDCL 5-18D-17